

HOUSE BILL No. 1223

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-36-2-3; IC 23-14; IC 25-15-9-18; IC 29-2-16.1; IC 31-17-2-17; IC 36-2-14-6.

Synopsis: Issues relating to the death of a minor. Provides that if a minor child dies, the parent awarded: (1) sole legal custody; or (2) primary physical custody (if joint legal custody was awarded to the parents); is the parent who may decide issues regarding the disposition of the child's body, including autopsy, cremation, funeral arrangements, or anatomical gifts.

Effective: July 1, 2016.

Olthoff

January 11, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1223

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-36-2-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) For the purpose
3 of this chapter, consent for a licensed physician to conduct an autopsy
4 of the body of a deceased person is sufficient when given by the
5 following persons if the persons survive the deceased:

6 (1) By the surviving spouse. However, if the deceased and the
7 surviving spouse were legally separated at the date of death, the
8 survivor is not considered a surviving spouse.

9 (2) If there is no surviving spouse, then by any one (1) adult child
10 of the deceased.

11 (3) **Subject to subdivision (5)**, if there is no surviving spouse or
12 adult child of the deceased, then by one (1) parent of the
13 deceased.

14 (4) If there is no surviving spouse, adult child, or parent and there
15 is an adult who is next of kin of the deceased residing in the
16 county in which the deceased died a resident, then by any one (1)
17 next of kin.



(5) If the decedent is a minor child and the subject of a custody order, the parent who was awarded:

(A) sole legal custody of the minor child; or

(B) primary physical custody, if the parents were awarded joint legal custody of the minor child.

~~(5)~~ (6) If there is no surviving spouse, adult child, parent, or next of kin, then by any person assuming custody of and financial responsibility for the burial of the body.

(b) If there is more than one (1) person authorized to consent, consent of one (1) of the persons is sufficient.

SECTION 2. IC 23-14-31-26, AS AMENDED BY P.L.6-2012, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

(1) A person:

(A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or

(B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

(2) An individual specifically granted the authority to serve in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death, except when:

(A) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(B) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used



reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) If the decedent is a minor child and the subject of a custody order, the parent who was awarded:

(A) sole legal custody of the minor child; or

(B) primary physical custody, if the parents were awarded joint legal custody of the minor child.

~~(5)~~ **(6)** The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has authority under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

~~(6)~~ **(7)** The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

~~(7)~~ **(8)** The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree is surviving, the majority of those who are of the same degree. However, less than half of the individuals who are of the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

~~(8)~~ **(9)** If none of the persons described in subdivisions (1) through ~~(7)~~ **(8)** are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through ~~(7)~~ **(8)**.

~~(9)~~ **(10)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the



following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through ~~(8)~~ (9) are available:

- (i) a public administrator, including a responsible township trustee or the trustee's designee; or
- (ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

~~(10)~~ (11) In the absence of any person under subdivisions (1) through ~~(9)~~; (10), any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

- (1) the death of the decedent appears to have been the result of:
 - (A) murder (IC 35-42-1-1);
 - (B) voluntary manslaughter (IC 35-42-1-3); or
 - (C) another criminal act, if the death does not result from the operation of a vehicle; and
- (2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

(e) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains, and the right to determine final disposition passes to the next person described in subsection (a).

(f) A crematory authority owner has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the



1 final disposition instructions.

2 (g) If there is a dispute concerning the disposition of a decedent's
3 remains, a crematory authority is not liable for refusing to accept the
4 remains of the decedent until the crematory authority receives:

5 (1) a court order; or

6 (2) a written agreement signed by the disputing parties;
7 that determines the final disposition of the decedent's remains. If a
8 crematory authority agrees to shelter the remains of the decedent while
9 the parties are in dispute, the crematory authority may collect any
10 applicable fees for storing the remains, including legal fees that are
11 incurred.

12 (h) Any cause of action filed under this section must be filed in the
13 probate court in the county where the decedent resided, unless the
14 decedent was not a resident of Indiana.

15 (i) A spouse seeking a judicial determination under subsection
16 (a)(3)(A) that the decedent and spouse were reconciled before the
17 decedent's death may petition the court having jurisdiction over the
18 dissolution or separation proceeding to make this determination by
19 filing the petition under the same cause number as the dissolution or
20 separation proceeding. A spouse who files a petition under this
21 subsection is not required to pay a filing fee.

22 SECTION 3. IC 23-14-55-2, AS AMENDED BY P.L.6-2012,
23 SECTION 163, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except as provided in
25 subsection (c), the owner of a cemetery is authorized to inter, entomb,
26 or inurn the body or cremated remains of a deceased human upon the
27 receipt of a written authorization of an individual who professes either
28 of the following:

29 (1) To be (in the priority listed) one (1) of the following:

30 (A) An individual granted the authority to serve in a funeral
31 planning declaration executed by the decedent under
32 IC 29-2-19, or the person named in a United States
33 Department of Defense form "Record of Emergency Data"
34 (DD Form 93) or a successor form adopted by the United
35 States Department of Defense, if the decedent died while
36 serving in any branch of the United States Armed Forces (as
37 defined in 10 U.S.C. 1481) and completed the form.

38 (B) An individual specifically granted the authority in a power
39 of attorney or a health care power of attorney executed by the
40 decedent under IC 30-5-5-16.

41 (C) The individual who was the spouse of the decedent at the
42 time of the decedent's death, except when:



(i) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(ii) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(D) The decedent's surviving adult child or, if more than one

(1) adult child is surviving, the majority of the adult children.

However, less than half of the surviving adult children have the rights under this clause if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(E) If the decedent is a minor child and the subject of a custody order, the parent who was awarded:

(i) sole legal custody of the minor child; or

(ii) primary physical custody, if the parents were awarded joint legal custody of the minor child.

~~(E)~~ (F) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has authority under this clause if the parent who is present has used reasonable efforts to notify the absent parent.

~~(F)~~ (G) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this clause if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

~~(G)~~ (H) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree of kinship is surviving, the majority of those who are of the same degree. However, less than half of the individuals who are of the same degree of kinship have the rights under this clause if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not



1 aware of any opposition to the final disposition instructions by
 2 more than half of the individuals who are of the same degree
 3 of kinship.

4 ~~(H)~~ (I) If none of the persons described in clauses (A) through
 5 ~~(G)~~ (H) are available, any other person willing to act and
 6 arrange for the final disposition of the decedent's remains,
 7 including a funeral home that:

8 (i) has a valid prepaid funeral plan executed under
 9 IC 30-2-13 that makes arrangements for the disposition of
 10 the decedent's remains; and

11 (ii) attests in writing that a good faith effort has been made
 12 to contact any living individuals described in clauses (A)
 13 through ~~(G)~~ (H).

14 (2) To have acquired by court order the right to control the
 15 disposition of the deceased human body or cremated remains.

16 The owner of a cemetery may accept the authorization of an individual
 17 only if all other individuals of the same priority or a higher priority
 18 (according to the priority listing in this subsection) are deceased, are
 19 barred from authorizing the disposition of the deceased human body or
 20 cremated remains under subsection (c), or are physically or mentally
 21 incapacitated from exercising the authorization, and the incapacity is
 22 certified to by a qualified medical doctor.

23 (b) An action may not be brought against the owner of a cemetery
 24 relating to the remains of a human that have been left in the possession
 25 of the cemetery owner without permanent interment, entombment, or
 26 inurnment for a period of three (3) years, unless the cemetery owner
 27 has entered into a written contract for the care of the remains.

28 (c) If:

29 (1) the death of the decedent appears to have been the result of:

30 (A) murder (IC 35-42-1-1);

31 (B) voluntary manslaughter (IC 35-42-1-3); or

32 (C) another criminal act, if the death does not result from the
 33 operation of a vehicle; and

34 (2) the coroner, in consultation with the law enforcement agency
 35 investigating the death of the decedent, determines that there is a
 36 reasonable suspicion that a person described in subsection (a)
 37 committed the offense;

38 the person referred to in subdivision (2) may not authorize the
 39 disposition of the decedent's body or cremated remains.

40 (d) The coroner, in consultation with the law enforcement agency
 41 investigating the death of the decedent, shall inform the cemetery
 42 owner of the determination referred to in subsection (c)(2).



(e) If a person vested with a right under subsection (a) does not exercise that right not less than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains and the right to determine final disposition passes to the next person described in subsection (a).

(f) A cemetery owner has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(g) If there is a dispute concerning the disposition of a decedent's remains, a cemetery owner is not liable for refusing to accept the remains of the decedent until the cemetery owner receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties; that determines the final disposition of the decedent's remains. If a cemetery agrees to shelter the remains of the decedent while the parties are in dispute, the cemetery may collect any applicable fees for storing the remains, including legal fees that are incurred.

(h) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(i) A spouse seeking a judicial determination under subsection (a)(1)(C)(i) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

SECTION 4. IC 25-15-9-18, AS AMENDED BY P.L.6-2012, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition of human remains, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death:

(1) A person:

(A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or

(B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor



- 1 form adopted by the United States Department of Defense, if
 2 the decedent died while serving in any branch of the United
 3 States Armed Forces (as defined in 10 U.S.C. 1481) and
 4 completed the form.
- 5 (2) An individual specifically granted the authority in a power of
 6 attorney or a health care power of attorney executed by the
 7 decedent under IC 30-5-5-16.
- 8 (3) The individual who was the spouse of the decedent at the time
 9 of the decedent's death, except when:
- 10 (A) a petition to dissolve the marriage or for legal separation
 11 of the decedent and spouse is pending with a court at the time
 12 of the decedent's death, unless a court finds that the decedent
 13 and spouse were reconciled before the decedent's death; or
 14 (B) a court determines the decedent and spouse were
 15 physically and emotionally separated at the time of death and
 16 the separation was for an extended time that clearly
 17 demonstrates an absence of due affection, trust, and regard for
 18 the decedent.
- 19 (4) The decedent's surviving adult child or, if more than one (1)
 20 adult child is surviving, the majority of the adult children.
 21 However, less than half of the surviving adult children have the
 22 rights under this subdivision if the adult children have used
 23 reasonable efforts to notify the other surviving adult children of
 24 their intentions and are not aware of any opposition to the final
 25 disposition instructions by more than half of the surviving adult
 26 children.
- 27 **(5) If the decedent is a minor child and the subject of a**
 28 **custody order, the parent who was awarded:**
- 29 **(A) sole legal custody of the minor child; or**
 30 **(B) primary physical custody, if the parents were awarded**
 31 **joint legal custody of the minor child.**
- 32 ~~(5)~~ (6) The decedent's surviving parent or parents. If one (1) of the
 33 parents is absent, the parent who is present has the rights under
 34 this subdivision if the parent who is present has used reasonable
 35 efforts to notify the absent parent.
- 36 ~~(6)~~ (7) The decedent's surviving sibling or, if more than one (1)
 37 sibling is surviving, the majority of the surviving siblings.
 38 However, less than half of the surviving siblings have the rights
 39 under this subdivision if the siblings have used reasonable efforts
 40 to notify the other surviving siblings of their intentions and are
 41 not aware of any opposition to the final disposition instructions by
 42 more than half of the surviving siblings.



~~(7)~~ **(8)** The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree survives, the majority of those who are of the same degree of kinship. However, less than half of the individuals who are of the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

~~(8)~~ **(9)** If none of the persons identified in subdivisions (1) through ~~(7)~~ **(8)** are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through ~~(7)~~ **(8)**.

~~(9)~~ **(10)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through ~~(8)~~ **(9)** is available:

- (i) a public administrator, including a responsible township trustee or the trustee's designee; or
- (ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

- (A) murder (IC 35-42-1-1);
- (B) voluntary manslaughter (IC 35-42-1-3); or
- (C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition of human remains.



(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection (b)(2).

(d) If the decedent had filed a protection order against a person described in subsection (a) and the protection order is currently in effect, the person described in subsection (a) may not authorize or designate the manner, type, or selection of the final disposition of human remains.

(e) A law enforcement agency shall determine if the protection order is in effect. If the law enforcement agency cannot determine the existence of a protection order that is in effect, the law enforcement agency shall consult the protective order registry established under IC 5-2-9-5.5.

(f) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains and the right to determine final disposition passes to the next person described in subsection (a).

(g) A funeral home has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(h) If there is a dispute concerning the disposition of a decedent's remains, a funeral home is not liable for refusing to accept the remains of the decedent until the funeral home receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties;

that determines the final disposition of the decedent's remains. If a funeral home agrees to shelter the remains of the decedent while the parties are in dispute, the funeral home may collect any applicable fees for storing the remains, including legal fees that are incurred.

(i) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(j) A spouse seeking a judicial determination under subsection (a)(3)(A) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this



subsection is not required to pay a filing fee.

SECTION 5. IC 29-2-16.1-7, AS AMENDED BY P.L.3-2008, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) Except as otherwise provided in subsection (g) and subject to subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 5 of this chapter is not a refusal and does not bar the person specified in section 3 or 8 of this chapter from making an anatomical gift of the donor's body or part under section 4 or 9 of this chapter.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter, another person may not make, amend, or revoke the gift of the donor's body or part under section 9 of this chapter.

(d) A revocation of an anatomical gift of a donor's body or part under section 5 of this chapter by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 4 or 9 of this chapter.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part for one (1) or more of the purposes set forth in section 3 of this chapter is not a limitation on the making of an anatomical gift of the part for any of the other purposes of the donor or any other person under section 4 or 9 of this chapter.

(g) If a donor who is an unemancipated minor dies, a parent of the donor **as set forth in section 8(a)(4) of this chapter** who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent



of the minor **as set forth in section 8(a)(4) of this chapter**, who is reasonably available may revoke the minor's refusal.

SECTION 6. IC 29-2-16.1-8, AS ADDED BY P.L.147-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) Subject to subsections (b) and (c), unless barred by section 6 or 7 of this chapter, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who are reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under section 3(2) of this chapter immediately before the decedent's death.

(2) The spouse of the decedent.

(3) Adult children of the decedent.

(4) Parents of the decedent; **however, if the decedent is a minor child and the subject of a custody order, the parent who was awarded:**

(A) sole legal custody of the minor child; or

(B) primary physical custody, if the parents were awarded joint legal custody of the minor child.

(5) Adult siblings of the decedent.

(6) Adult grandchildren of the decedent.

(7) Grandparents of the decedent.

(8) An adult who exhibited special care and concern for the decedent.

(9) A person acting as the guardian of the decedent at the time of death.

(10) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one (1) member of a class listed in subsection (a)(1), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to whom the gift may pass under section 10 of this chapter knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.



1 SECTION 7. IC 31-17-2-17 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 17. (a) Except:

3 (1) as otherwise agreed by the parties in writing at the time of the
 4 custody order; and

5 (2) as provided in subsection (b);

6 the custodian may determine the child's upbringing, including the
 7 child's education, health care, and religious training.

8 (b) If the court finds after motion by a noncustodial parent that, in
 9 the absence of a specific limitation of the custodian's authority, the
 10 child's:

11 (1) physical health would be endangered; or

12 (2) emotional development would be significantly impaired;

13 the court may specifically limit the custodian's authority.

14 **(c) If a child dies, the parent awarded:**

15 **(1) sole legal custody of a child; or**

16 **(2) primary physical custody of a child, if the parents were**
 17 **awarded joint legal custody;**

18 **has the authority regarding the decedent set forth in IC 16-36-2-3,**
 19 **IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, IC 29-1-10-1,**
 20 **IC 29-2-16.1-8, IC 31-17-2-17, and IC 36-2-14-6.**

21 SECTION 8. IC 36-2-14-6, AS AMENDED BY P.L.34-2011,
 22 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 6. (a) Whenever the coroner is notified that a
 24 person in the county:

25 (1) has died from violence;

26 (2) has died by casualty;

27 (3) has died when apparently in good health;

28 (4) has died in an apparently suspicious, unusual, or unnatural
 29 manner; or

30 (5) has been found dead;

31 the coroner shall, before the scene of the death is disturbed, notify a
 32 law enforcement agency having jurisdiction in that area. The agency
 33 shall assist the coroner in conducting an investigation of how the
 34 person died and a medical investigation of the cause of death. The
 35 coroner may hold the remains of the decedent until the investigation of
 36 how the person died and the medical investigation of the cause of death
 37 are concluded.

38 (b) The coroner:

39 (1) shall file a certificate of death with the county health
 40 department, or, if applicable, a multiple county health department,
 41 of the county in which the individual died, within seventy-two

42 (72) hours after the completion of the death investigation;



(2) shall complete the certificate of death utilizing all verifiable information establishing the time and date of death; and

(3) may file a pending investigation certificate of death before completing the certificate of death, if necessary.

(c) If this section applies, the body and the scene of death may not be disturbed until:

(1) the coroner has photographed them in the manner that most fully discloses how the person died; and

(2) law enforcement and the coroner have finished their initial assessment of the scene of death.

However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it necessary to have an autopsy performed, is required to perform an autopsy under subsection (f), or is requested by the prosecuting attorney of the county to perform an autopsy, the coroner shall employ a:

(1) physician certified by the American Board of Pathology; or

(2) pathology resident acting under the direct supervision of a physician certified in anatomic pathology by the American Board of Pathology;

to perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars (\$50) from the county treasury.

(e) If:

(1) at the request of:

(A) the decedent's spouse;

(B) a child of the decedent, if the decedent does not have a spouse;

(C) if the decedent is a minor child and subject to a custody order, only the parent awarded:

(i) sole legal custody of the child; or

(ii) primary physical custody of the child, if the parents were awarded joint legal custody;

may make a request under this subsection;

~~(D)~~ **(D) except as provided in clause (C),** a parent of the decedent, if the decedent does not have a spouse or children;

~~(E)~~ **(E) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or**



1 ~~(E)~~ (F) a grandparent of the decedent, if the decedent does not
 2 have a spouse, children, parents, brothers, or sisters;
 3 (2) in any death, two (2) or more witnesses who corroborate the
 4 circumstances surrounding death are present; and
 5 (3) two (2) physicians who are licensed to practice medicine in
 6 the state and who have made separate examinations of the
 7 decedent certify the same cause of death in an affidavit within
 8 twenty-four (24) hours after death;

9 an autopsy need not be performed. The affidavits shall be filed with the
 10 circuit court clerk.

11 (f) A county coroner may not certify the cause of death in the case
 12 of the sudden and unexpected death of a child who is less than three (3)
 13 years old unless an autopsy is performed at county expense. However,
 14 a coroner may certify the cause of death of a child described in this
 15 subsection without the performance of an autopsy if subsection (e)
 16 applies to the death of the child.

17 (g) After consultation with the law enforcement agency
 18 investigating the death of a decedent, the coroner shall do the
 19 following:

20 (1) Inform a crematory authority if a person is barred under
 21 IC 23-14-31-26(c) from serving as the authorizing agent with
 22 respect to the cremation of the decedent's body because the
 23 coroner made the determination under IC 23-14-31-26(c)(2) in
 24 connection with the death of the decedent.

25 (2) Inform a cemetery owner if a person is barred under
 26 IC 23-14-55-2(c) from authorizing the disposition of the body or
 27 cremated remains of the decedent because the coroner made the
 28 determination under IC 23-14-55-2(c)(2) in connection with the
 29 death of the decedent.

30 (3) Inform a seller of prepaid services or merchandise if a person's
 31 contract is unenforceable under IC 30-2-13-23(b) because the
 32 coroner made the determination under IC 30-2-13-23(b)(4) in
 33 connection with the death of the decedent.

